

03/09/06  
# 4

**ORDINANCE NO.**

1 **AN ORDINANCE ORDERING AN ELECTION TO BE HELD IN THE CITY OF**  
2 **AUSTIN ON MAY 13, 2006, FOR THE PURPOSE OF SUBMITTING A**  
3 **PROPOSED CHARTER AMENDMENT TO THE VOTERS; AND PROVIDING**  
4 **FOR THE CONDUCT OF THE ELECTION.**

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6 **BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

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8 **PART 1.** A charter amendment election shall be held in the City on May 13, 2006, at  
9 which the ballot shall be prepared to permit voting "yes" or "no" on the following  
10 proposition:

11 Shall the City Charter be amended to limit contributions from individuals outside  
12 the Austin city limits, increase and adjust for inflation the aggregate contribution  
13 amount that a council member may collect and the maximum individual  
14 contribution to a candidate for city council, allow a person elected to city council  
15 to fund an account to pay officeholder expenses, and allow fundraising by  
16 unsuccessful candidates and retired council members to retire campaign debt?

17 **PART 2.** If this proposition is approved by the majority of the voters voting at the  
18 election, the current Article III, Section 8 of the City Charter is repealed and replaced  
19 with a new Section 8 to read:

20 **§ 8. LIMITS ON CAMPAIGN CONTRIBUTIONS AND EXPENDITURES.**

21  
22 **(A) Limits On Contributions To Candidates.**

23 (1) No candidate for Mayor or City Council and his or her campaign  
24 committee shall accept campaign contributions in excess of \$300 per  
25 contributor per election from any person, except for the candidate and  
26 small-donor political committees. The amount of the contribution limit  
27 shall be modified each year with the adoption of the budget to increase or  
28 decrease in accordance with the most recently published federal  
29 government, Bureau of Labor Statistics Indicator, Consumer Price Index  
30 (CPI-W U.S. City Average) U.S. City Average. The most recently  
31 published Consumer Price Index on May 13, 2006, shall be used as a base  
32 of 100 and the adjustment thereafter will be to the nearest \$50.00.

33 (2) Each candidate may authorize, establish, administer, or control only one  
34 campaign committee at one time.

1 (3) No candidate and his or her committee shall accept an aggregate  
2 contribution total of more than \$30,000 per election, and \$20,000 in the  
3 case of a runoff election, from sources other than natural persons eligible  
4 to vote in a postal zip code completely or partially within the Austin city  
5 limits. The amount of the contribution limit shall be modified each year  
6 with the adoption of the budget to increase or decrease in accordance with  
7 the most recently published federal government, Bureau of Labor Statistics  
8 Indicator, Consumer Price Index (CPI-W U.S. City Average) U.S. City  
9 Average. The most recently published Consumer Price Index on May 13,  
10 2006, shall be used as a base of 100 and the adjustment thereafter will be to  
11 the nearest \$1,000.00.

12 (B) Small-Donor Political Committees.

13 (1) A small-donor political committee is a political committee which has  
14 accepted no more than \$25 from any contributor during any calendar year,  
15 has had at least 100 contributors during either the current or previous  
16 calendar year, has been in existence for at least six months, and has never  
17 been controlled by a candidate.

18 (2) Such a committee shall not contribute more than \$1000 per candidate per  
19 election for the offices of Mayor and City Council.

20 (C) Coordinated Expenditures.

21 Any expenditure supporting the election of a candidate or opposing the  
22 election of an opponent made with the prior consent of the candidate or his or her  
23 committee, or with cooperation or strategic communication between the candidate  
24 or his or her committee and the person making the expenditure, is considered a  
25 contribution and an expenditure.  
26

27 (D) Contributions Considered To Be From One Committee.

28 Contributions made by separate political committees established,  
29 administered, maintained, or controlled by the same person or persons, including  
30 any parent, subsidiary, branch, division, department or local unit of the person, or  
31 by groups of those persons, shall be considered to be made by a single political  
32 committee.  
33

34 (E) Responsibility Of Candidate To Prevent Violations.

35 The candidate, or his or her committee, shall determine whether accepting  
36 each contribution would violate this section before accepting the contribution.

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2 (F) Time Restrictions On Candidate Fundraising; Officeholder Accounts.

- 3 (1) In this section terms have the same meaning they have in Title 15 of the  
4 Texas Election Code. The term "officeholder account" means an account  
5 in which funds described by subsection (F)(4) must be kept.  
6 "Officeholder" means the mayor or a council member.
- 7 (2) An officeholder, a candidate for mayor or city council, or an officeholder's  
8 or candidate's committee may not solicit or accept a political contribution  
9 except during the last 180 days before an election for mayor or council  
10 member or in which an officeholder faces recall.
- 11 (3) Except as provided by subsection (F)(6), no later than the 90th day after an  
12 election, or if a candidate is in a runoff election no later than the 90<sup>th</sup> day  
13 after the runoff, a candidate or officeholder shall distribute the balance of  
14 funds received from political contributions in excess of any remaining  
15 expenses for the election: (a) to the candidate's or officeholder's  
16 contributors on a reasonable basis, (b) to a charitable organization, or (c) to  
17 the Austin Fair Campaign Fund.
- 18 (4) An unsuccessful candidate who, after an election, has unpaid expenses  
19 remaining, or who has unreimbursed campaign expenditures from personal  
20 funds that were made with the intent to seek reimbursement from political  
21 contributions, may solicit and accept political contributions after the  
22 election until the unpaid expenses are paid and the unreimbursed  
23 expenditures are reimbursed.
- 24 (5) An officeholder who, after an election, has unpaid expenses remaining, or  
25 who has unreimbursed campaign expenditures from personal funds that  
26 were made with the intent to seek reimbursement from political  
27 contributions, may solicit and accept political contributions after leaving  
28 office until the unpaid expenses are paid and the unreimbursed  
29 expenditures are reimbursed. An officeholder may also pay the unpaid  
30 expenses and reimburse the unreimbursed expenditures from political  
31 contributions received during a subsequent campaign.
- 32 (6) An officeholder may retain up to \$20,000 of funds received from political  
33 contributions for the purposes of officeholder expenditures.
- 34 (7) An officeholder shall keep funds retained under subsection (F)(6) in an  
35 account separate from any other funds including personal funds of the  
36 officeholder and any other political funds of the officeholder. The funds

1 kept in an officeholder account may be used only for officeholder  
2 expenditures. The funds kept in an officeholder account may not be used  
3 for campaign expenditures. The funds kept in an officeholder account may  
4 not exceed \$20,000.00 at any time.

5 (8) When an officeholder leaves the Council the funds remaining in an  
6 officeholder account must be paid to the Austin Fair Campaign Fund.

7 (G) Applicability To Councilmembers.

8 Any incumbent mayor or councilmember is subject to the regulations  
9 applied to candidates for the office he or she holds.

10 (H) Criminal or Civil Litigation Fund.

11 Nothing in this article applies to the solicitation, acceptance, or use of  
12 contributions for:  
13

14 (1) defending a criminal action or prosecuting or defending a civil action  
15 brought by or against the person in the person's status as a candidate or  
16 officeholder; or

17 (2) participating in an election contest or participating in a civil action to  
18 determine a person's eligibility to be a candidate for, or elected or  
19 appointed to, a public office in this state.

20 (I) Enforcement.

21 The city council may by ordinance adopt penalties and enforcement  
22 procedures for violations of this Article.

23 (J) Severability.

24 If any provision of this section, or the application of that provision to any  
25 persons or circumstances, shall be held invalid, then the remainder of this section,  
26 to the extent that it can be given effect, and the application of that provision to  
27 persons or circumstances other than those to which it was held invalid, shall not be  
28 affected thereby, and to this extent the provisions of this section are severable.  
29

30 **PART 3.** The election shall be conducted as provided in Ordinance No. 20060302-002.  
31 The provisions of Ordinance No. 20060302-002 relating to the conduct of the election are  
32 incorporated by reference as part of this ordinance.

33 **PART 4.** This ordinance takes effect on \_\_\_\_\_, 2006.

**PASSED AND APPROVED**

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\_\_\_\_\_, 2006

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\_\_\_\_\_  
Will Wynn  
Mayor

**APPROVED:** \_\_\_\_\_  
David Allan Smith  
City Attorney

**ATTEST:** \_\_\_\_\_  
Shirley A. Gentry  
City Clerk